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11 **BEFORE THE**  
12 **MEDICAL BOARD OF CALIFORNIA**  
13 **DEPARTMENT OF CONSUMER AFFAIRS**  
14 **STATE OF CALIFORNIA**

15 In the Matter of the Accusation Against:

Case No. 800-2021-075490

16 **Andy Yongde Zhu, M.D.**  
2330 W Covell Blvd.  
Davis, CA 95616-5685

**A C C U S A T I O N**

17 **Physician's and Surgeon's Certificate**  
18 **No. A 104156,**

19 Respondent.

20  
21 **PARTIES**

22 1. Reji Varghese (Complainant) brings this Accusation solely in his official capacity as  
23 the Executive Director of the Medical Board of California, Department of Consumer Affairs  
24 (Board).

25 2. On or about May 30, 2008, the Medical Board issued Physician's and Surgeon's  
26 Certificate No. A 104156 to Andy Yongde Zhu, M.D. (Respondent). The Physician's and  
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
28 herein and will expire on March 31, 2024, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

5. Section 2234 of the Code, states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption that is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct that would have warranted the denial of a certificate.

(g) The failure by a certificate holder, in the absence of good cause, to attend and participate in an interview by the board. This subdivision shall only apply to a certificate holder who is the subject of an investigation by the board.

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1           6.     Section 2228.1 of the Code states:

2           (a) On and after July 1, 2019, except as otherwise provided in subdivision (c),  
3     the board and the Podiatric Medical Board of California shall require a licensee to  
4     provide a separate disclosure that includes the licensee's probation status, the length  
5     of the probation, the probation end date, all practice restrictions placed on the licensee  
6     by the board, the board's telephone number, and an explanation of how the patient  
7     can find further information on the licensee's probation on the licensee's profile page  
8     on the board's online license information internet web site, to a patient or the  
9     patient's guardian or health care surrogate before the patient's first visit following the  
10    probationary order while the licensee is on probation pursuant to a probationary order  
11    made on and after July 1, 2019, in any of the following circumstances:

12           (1) A final adjudication by the board following an administrative hearing or  
13    admitted findings or prima facie showing in a stipulated settlement establishing any  
14    of the following:

15           (A) The commission of any act of sexual abuse, misconduct, or relations with a  
16    patient or client as defined in Section 726 or 729.

17           (B) Drug or alcohol abuse directly resulting in harm to patients or the extent  
18    that such use impairs the ability of the licensee to practice safely.

19           (C) Criminal conviction directly involving harm to patient health.

20           (D) Inappropriate prescribing resulting in harm to patients and a probationary  
21    period of five years or more.

22           (2) An accusation or statement of issues alleged that the licensee committed any  
23    of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a  
24    stipulated settlement based upon a nolo contendere or other similar compromise that  
25    does not include any prima facie showing or admission of guilt or fact but does  
26    include an express acknowledgment that the disclosure requirements of this section  
27    would serve to protect the public interest.

28           (b) A licensee required to provide a disclosure pursuant to subdivision (a) shall  
   obtain from the patient, or the patient's guardian or health care surrogate, a separate,  
   signed copy of that disclosure.

          (c) A licensee shall not be required to provide a disclosure pursuant to  
   subdivision (a) if any of the following applies:

          (1) The patient is unconscious or otherwise unable to comprehend the  
   disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a  
   guardian or health care surrogate is unavailable to comprehend the disclosure and  
   sign the copy.

          (2) The visit occurs in an emergency room or an urgent care facility or the visit  
   is unscheduled, including consultations in inpatient facilities.

          (3) The licensee who will be treating the patient during the visit is not known to  
   the patient until immediately prior to the start of the visit.

          (4) The licensee does not have a direct treatment relationship with the patient.

1 (d) On and after July 1, 2019, the board shall provide the following  
2 information, with respect to licensees on probation and licensees practicing under  
3 probationary licenses, in plain view on the licensee's profile page on the board's  
4 online license information internet web site.

5 (1) For probation imposed pursuant to a stipulated settlement, the causes  
6 alleged in the operative accusation along with a designation identifying those causes  
7 by which the licensee has expressly admitted guilt and a statement that acceptance of  
8 the settlement is not an admission of guilt.

9 (2) For probation imposed by an adjudicated decision of the board, the causes  
10 for probation stated in the final probationary order.

11 (3) For a licensee granted a probationary license, the causes by which the  
12 probationary license was imposed.

13 (4) The length of the probation and end date.

14 (5) All practice restrictions placed on the license by the board.

15 (e) Section 2314 shall not apply to this section.

16 (a) On and after July 1, 2019, except as otherwise provided in subdivision (c),  
17 the board and the Podiatric Medical Board of California shall require a licensee to  
18 provide a separate disclosure that includes the licensee's probation status, the length  
19 of the probation, the probation end date, all practice restrictions placed on the licensee  
20 by the board, the board's telephone number, and an explanation of how the patient  
21 can find further information on the licensee's probation on the licensee's profile page  
22 on the board's online license information internet web site, to a patient or the  
23 patient's guardian or health care surrogate before the patient's first visit following the  
24 probationary order while the licensee is on probation pursuant to a probationary order  
25 made on and after July 1, 2019, in any of the following circumstances:

26 (1) A final adjudication by the board following an administrative hearing or  
27 admitted findings or prima facie showing in a stipulated settlement establishing any  
28 of the following:

(A) The commission of any act of sexual abuse, misconduct, or relations with a  
patient or client as defined in Section 726 or 729.

(B) Drug or alcohol abuse directly resulting in harm to patients or the extent  
that such use impairs the ability of the licensee to practice safely.

(C) Criminal conviction directly involving harm to patient health.

(D) Inappropriate prescribing resulting in harm to patients and a probationary  
period of five years or more.

(2) An accusation or statement of issues alleged that the licensee committed any  
of the acts described in subparagraphs (A) to (D), inclusive, of paragraph (1), and a  
stipulated settlement based upon a nolo contendere or other similar compromise that  
does not include any prima facie showing or admission of guilt or fact but does  
include an express acknowledgment that the disclosure requirements of this section  
would serve to protect the public interest.

(b) A licensee required to provide a disclosure pursuant to subdivision (a) shall

1 obtain from the patient, or the patient's guardian or health care surrogate, a separate,  
signed copy of that disclosure.

2 (c) A licensee shall not be required to provide a disclosure pursuant to  
subdivision (a) if any of the following applies:

3 (1) The patient is unconscious or otherwise unable to comprehend the  
4 disclosure and sign the copy of the disclosure pursuant to subdivision (b) and a  
guardian or health care surrogate is unavailable to comprehend the disclosure and  
5 sign the copy.

6 (2) The visit occurs in an emergency room or an urgent care facility or the visit  
is unscheduled, including consultations in inpatient facilities.

7 (3) The licensee who will be treating the patient during the visit is not known to  
8 the patient until immediately prior to the start of the visit.

9 (4) The licensee does not have a direct treatment relationship with the patient.

10 (d) On and after July 1, 2019, the board shall provide the following  
information, with respect to licensees on probation and licensees practicing under  
11 probationary licenses, in plain view on the licensee's profile page on the board's  
online license information internet web site.

12 (1) For probation imposed pursuant to a stipulated settlement, the causes  
13 alleged in the operative accusation along with a designation identifying those causes  
by which the licensee has expressly admitted guilt and a statement that acceptance of  
14 the settlement is not an admission of guilt.

15 (2) For probation imposed by an adjudicated decision of the board, the causes  
for probation stated in the final probationary order.

16 (3) For a licensee granted a probationary license, the causes by which the  
17 probationary license was imposed.

18 (4) The length of the probation and end date.

19 (5) All practice restrictions placed on the license by the board.

20 (e) Section 2314 shall not apply to this section.

21 7. Section 729 of the Code states:

22 (a) Any physician and surgeon, psychotherapist, alcohol and drug abuse  
counselor or any person holding himself or herself out to be a physician and surgeon,  
23 psychotherapist, or alcohol and drug abuse counselor, who engages in an act of sexual  
intercourse, sodomy, oral copulation, or sexual contact with a patient or client, or  
24 with a former patient or client when the relationship was terminated primarily for the  
purpose of engaging in those acts, unless the physician and surgeon, psychotherapist,  
25 or alcohol and drug abuse counselor has referred the patient or client to an  
independent and objective physician and surgeon, psychotherapist, or alcohol and  
26 drug abuse counselor recommended by a third-party physician and surgeon,  
psychotherapist, or alcohol and drug abuse counselor for treatment, is guilty of sexual  
27 exploitation by a physician and surgeon, psychotherapist, or alcohol and drug abuse  
counselor.

1 (b) Sexual exploitation by a physician and surgeon, psychotherapist, or alcohol  
and drug abuse counselor is a public offense:

2 (1) An act in violation of subdivision (a) shall be punishable by imprisonment  
3 in a county jail for a period of not more than six months, or a fine not exceeding one  
thousand dollars (\$1,000), or by both that imprisonment and fine.

4 (2) Multiple acts in violation of subdivision (a) with a single victim, when the  
5 offender has no prior conviction for sexual exploitation, shall be punishable by  
imprisonment in a county jail for a period of not more than six months, or a fine not  
6 exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

7 (3) An act or acts in violation of subdivision (a) with two or more victims shall  
be punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the  
8 Penal Code for a period of 16 months, two years, or three years, and a fine not  
exceeding ten thousand dollars (\$10,000); or the act or acts shall be punishable by  
9 imprisonment in a county jail for a period of not more than one year, or a fine not  
exceeding one thousand dollars (\$1,000), or by both that imprisonment and fine.

10 (4) Two or more acts in violation of subdivision (a) with a single victim, when  
the offender has at least one prior conviction for sexual exploitation, shall be  
11 punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal  
Code for a period of 16 months, two years, or three years, and a fine not exceeding  
12 ten thousand dollars (\$10,000); or the act or acts shall be punishable by imprisonment  
in a county jail for a period of not more than one year, or a fine not exceeding one  
13 thousand dollars (\$1,000), or by both that imprisonment and fine.

14 (5) An act or acts in violation of subdivision (a) with two or more victims, and  
the offender has at least one prior conviction for sexual exploitation, shall be  
15 punishable by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal  
Code for a period of 16 months, two years, or three years, and a fine not exceeding  
16 ten thousand dollars (\$10,000).

17 For purposes of subdivision (a), in no instance shall consent of the patient or  
18 client be a defense. However, physicians and surgeons shall not be guilty of sexual  
exploitation for touching any intimate part of a patient or client unless the touching is  
19 outside the scope of medical examination and treatment, or the touching is done for  
sexual gratification.

20 (c) For purposes of this section:

21 (1) "Psychotherapist" has the same meaning as defined in Section 728.

22 (2) "Alcohol and drug abuse counselor" means an individual who holds himself  
23 or herself out to be an alcohol or drug abuse professional or paraprofessional.

24 (3) "Sexual contact" means sexual intercourse or the touching of an intimate  
part of a patient for the purpose of sexual arousal, gratification, or abuse.

25 (4) "Intimate part" and "touching" have the same meanings as defined in  
26 Section 243.4 of the Penal Code.

27 (d) In the investigation and prosecution of a violation of this section, no person  
shall seek to obtain disclosure of any confidential files of other patients, clients, or  
28 former patients or clients of the physician and surgeon, psychotherapist, or alcohol  
and drug abuse counselor.

1 (e) This section does not apply to sexual contact between a physician and  
2 surgeon and his or her spouse or person in an equivalent domestic relationship when  
that physician and surgeon provides medical treatment, other than psychotherapeutic  
treatment, to his or her spouse or person in an equivalent domestic relationship.

3 (f) If a physician and surgeon, psychotherapist, or alcohol and drug abuse  
4 counselor in a professional partnership or similar group has sexual contact with a  
5 patient in violation of this section, another physician and surgeon, psychotherapist, or  
alcohol and drug abuse counselor in the partnership or group shall not be subject to  
action under this section solely because of the occurrence of that sexual contact.

6 8. Section 726 of the Code states:

7 (a) The commission of any act of sexual abuse, misconduct, or relations with a  
8 patient, client, or customer constitutes unprofessional conduct and grounds for  
disciplinary action for any person licensed under this or under any initiative act  
referred to in this division.

9 (b) This section shall not apply to consensual sexual contact between a licensee  
10 and his or her spouse or person in an equivalent domestic relationship when that  
11 licensee provides medical treatment, to his or her spouse or person in an equivalent  
domestic relationship.

#### 12 COST RECOVERY

13 9. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
14 administrative law judge to direct a licensee found to have committed a violation or violations of  
15 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
16 enforcement of the case, with failure of the licensee to comply subjecting the license to not being  
17 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
18 included in a stipulated settlement.

#### 19 FACTUAL ALLEGATIONS

20 10. Respondent was employed by Community Medical Centers, Inc., (CMC), between  
21 June of 2008 and February of 2021, as a primary care provider, treating children and adults at the  
22 Dixon Family Practice. He is Board-certified by the American Board of Family Medicine.

#### 23 **Patient 1**

24 11. Patient 1 was a patient at CMC Dixon Family Practice since approximately 2013.  
25 She saw various providers at different times, based on availability. She had seen Respondent as a  
26 primary care provider on several occasions without incident for various medical concerns in  
27 2014.

28 ///

1           12. On or about November of 2014, Patient 1 had an appointment with Respondent to  
2 request a medication refill. At the November 2014 appointment, Patient 1 was 21-years old, and  
3 voiced no current physical complaints to Respondent. Patient 1 reported that she was  
4 experiencing anxiety, and sought medication to treat the anxiety and insomnia. Nonetheless,  
5 Respondent performed a physical examination of Patient 1, including listening to her heart.

6           13. While Patient 1 was sitting up on the exam table, Respondent put his hand inside her  
7 tank top shirt and inside her bra and cupped and squeezed her breast for several seconds.  
8 Respondent was not wearing gloves and the skin of his hands touched the skin of her breasts  
9 under her wired bra. Respondent cupped her breast sufficiently firmly to nearly lift it out of the  
10 wired bra. There was no one in the examination room other than Respondent and Patient 1 and at  
11 no point did Respondent offer Patient 1 a chaperone, or advise her to change into a gown.

12           14. Respondent then asked her to lay down and lifted up her tank top and palpated her  
13 abdomen, before putting his hand on her breast again, under the tank top and bra, and squeezing it  
14 for several more seconds. As Respondent palpated Patient 1's abdomen and touched her breast,  
15 he simultaneously asked Patient 1 questions about her medical history and condition. Patient 1  
16 received the impression that he was doing this to distract her from his conduct and make the  
17 touching of her breast seem like a normal part of a medical examination. Patient 1 was shocked  
18 and left the exam room as soon as possible. Respondent's medical record for this appointment  
19 contains no description of any breast examination or any medical justification for touching Patient  
20 1's breasts.

21           15. As soon as the appointment was over, Patient 1 called her mother and told her that  
22 Respondent had touched her breasts inappropriately during the appointment. Patient 1's mother  
23 encouraged her to inform the medical office staff, but Patient 1 was too shocked and anxious to  
24 report it right away. Approximately one month later, Patient 1 made another appointment at  
25 CMC Dixon Family Practice. She requested that she see a female provider.

26           16. On or about December of 2014, Patient 1 returned to CMC Dixon Family Practice,  
27 and had an appointment with a female Physician Assistant, (PA). Patient 1 attempted to tell the  
28 PA that Respondent touched her breasts inappropriately at her last appointment. The PA refused



1 to discuss Patient 1's concerns, and instead cut her off, stating that the PA was not present during  
2 her last appointment with Respondent and could not know what happened. The PA changed the  
3 subject to address only Patient 1's current medical complaints.

4 17. Several years later, in approximately November of 2020, Patient 1 was expecting her  
5 first child and had a routine appointment with an obstetrician at CMC Dixon Family Practice.  
6 Part of standard intake forms to establish prenatal care require all patients to respond to a  
7 questionnaire about whether the expecting patient is safe and whether the patient has ever been  
8 the victim of physical or sexual abuse. Patient 1 responded to the inquiry explaining that she had  
9 been touched inappropriately by Respondent at an appointment in 2014. The obstetrician relayed  
10 this information to CMC management, who had by this time received multiple additional  
11 complaints against Respondent.

12 **Patient 2**

13 18. On or about June 29, 2015, Patient 2 saw Respondent for the first and only time to  
14 complete a physical examination in connection with her U.S. Citizenship and Immigration  
15 Services application. During the exam, Respondent told Patient 2 to lay down on her back. He  
16 palpated her abdomen, and then placed his hand inside her top and squeezed one of her breasts for  
17 several seconds. He then put his hand inside the other side of her top and cupped and squeezed  
18 the other breast. At no point did Respondent provide Patient 2 with a gown to change into or  
19 explain what he was doing or what the examination would consist of. Respondent and Patient 2  
20 were the only two people in the exam room, and Respondent never offered Patient 2 a chaperone.  
21 Patient 2 was startled by Respondent touching her breasts in this way because it was nothing like  
22 any of the regular breast examinations she had experienced by other physicians. Respondent's  
23 medical record for this appointment contains no description of any breast examination or any  
24 medical justification for touching Patient 1's breasts.

25 19. Patient 2 went home and told her husband about the appointment and that she was  
26 concerned that Respondent had behaved inappropriately by touching her breasts in that way. Her  
27 husband recommended that she phone the CMC Dixon Family Practice's office to report what  
28 happened. Patient 2 and her husband called the office, explaining that she had just had an

1 immigration physical with Respondent and asked if it was normal for this physical to include a  
2 breast examination. The CMC employee who answered the phone put them on hold and came  
3 back a few minutes later, telling her that was completely normal. Patient 2 told the person on the  
4 phone that the examination did not feel normal. The person on the phone was unhelpful and  
5 reiterated that a breast examination is normal for an immigration physical. Patient 2 felt  
6 dissuaded from pursuing the matter further because the medical office told her that Respondent's  
7 conduct was normal, and she did not want to jeopardize her immigration paperwork. She and her  
8 husband did, however, advise CMC Dixon Family Practice that if she had to return for future care  
9 at that office that she requested not to be given another appointment with Respondent.

10 20. CMC informed Respondent that there had been a complaint against him by Patient 2  
11 that he had touched her breasts inappropriately. Respondent denied to CMC that he had done so.  
12 CMC did not take any employment action against Respondent at that time, but advised him that  
13 he should have a chaperone in the exam room when he conducts physical examinations of female  
14 patients in the future, to prevent this type of complaint from occurring again.

### 15 Patient 3

16 21. Patient 3 was a patient at CMC Dixon Family Practice in 2020, during which time she  
17 was approximately 16 years old. Patient 3's mother made an appointment for her to see  
18 Respondent on or about May 22, 2020 due to shortness of breath and wheezing. Patient 3 had  
19 also been experiencing anxiety and sleeplessness. Patient 3 had seen Respondent at least once  
20 before, with her mother, a few months earlier. During the appointment in May of 2020, medical  
21 offices had implemented COVID-19 protocols to limit the transmission of infections. In addition,  
22 Patient 3's mother thought that Patient 3 may be more comfortable speaking with the doctor about  
23 anxiety without her mother present. Therefore, Patient 3 went into the CMC Dixon Family  
24 Practice office by herself, while her mother waited outside the office in the car in the parking lot.  
25 Patient 3's mother assumed that, because Patient 3 was a child, there would be a medical assistant  
26 present during her appointment with Respondent.

27 22. Respondent entered the examination room to see Patient 3 alone. He did not offer her  
28 a chaperone. Patient 3 was wearing regular clothing and had not been provided a gown to change

1 into. During the examination, Respondent first listened to Patient 3's heart with a stethoscope.  
2 He then pressed on the top of Patient 3's chest, and asked her if it caused any chest pain. Patient  
3 3 responded that her chest did not hurt. Respondent continued moving his hand down Patient 3's  
4 chest, pushing away her sports bra, and asking if it caused pain until his hand was inside her shirt.  
5 Respondent then suddenly closed his hand around her breast, inside her sports bra and lifted and  
6 squeezed it. Respondent was not wearing gloves and the contact was skin-to-skin. Patient 3 was  
7 shocked. She stood up and told Respondent that she had to go to the bathroom, even though she  
8 did not, as a way to get away from him.

9 23. Patient 3 left the exam room quickly and walked down the hall toward the nurse's  
10 station. The Medical Assistant (MA), who had roomed Patient 3, was at the nurse's station and  
11 watched as Patient 3 left the exam room, pushed past Respondent, and walked toward her while  
12 Respondent followed behind, appearing flustered. The MA reported that Patient 3 approached  
13 her and stated that Respondent "grabbed my boob." Respondent began attempting to explain  
14 himself to the MA, stating that he had only examined Patient 3's chest for pain, as Patient 3  
15 repeated that Respondent grabbed her breast.

16 24. The MA observed that Patient 3 was crying, so she told Patient 3 that she would bring  
17 her into a separate room. Respondent tried to interrupt and tell the MA that Patient 3 was having  
18 anxiety or a panic attack and needed to be seen by the Behavioral Health specialist, but the MA  
19 disregarded Respondent and took Patient 3 to a room on her own. Patient 3 called her mother  
20 who came in from the parking lot to join her in the room. Ultimately, a female Nurse Practitioner  
21 completed Patient 3's examination, and scheduled her for a follow up appointment. CMC Dixon  
22 Family Practice staff reported the matter to the local police department, who arrived on scene and  
23 took a report.

24 25. The police department conducted an interview of Respondent, inquiring about the  
25 allegations by Patient 3. Respondent told the police investigators that he had not touched Patient  
26 3's breast. He admitted that he performed an examination of Patient 3, and admitted that there  
27 was no chaperone present, and that he placed his hand inside Patient 3's shirt, but he contended  
28 that he merely palpated her chest for pain. Respondent told police investigators that he believed

1 Patient 3 may have had a panic attack due to her anxiety symptoms. Despite having been made  
2 aware of Patient 2's complaint in 2016, Respondent falsely told the police investigators that in his  
3 entire career practicing medicine, he had never before been accused of anything like this.

4 **FIRST CAUSE FOR DISCIPLINE**

5 **(Sexual Exploitation)**

6 26. Respondent Andy Yongde Zhu, M.D., is subject to disciplinary action under section  
7 729 of the Code in that he committed sexual exploitation of Patients 1, 2, and 3.

8 27. Paragraphs 10 through 25, above, are incorporated by reference as if fully set forth  
9 herein.

10 **SECOND CAUSE FOR DISCIPLINE**

11 **(Sexual Misconduct)**

12 28. Respondent Andy Yongde Zhu, M.D., is subject to disciplinary action under section  
13 726 of the Code in that he committed sexual misconduct with Patients 1, 2, and 3.

14 29. Paragraphs 10 through 25, above, are incorporated by reference as if fully set forth  
15 herein.

16 **THIRD CAUSE FOR DISCIPLINE**

17 **(Gross Negligence)**

18 30. Respondent Andy Yongde Zhu, M.D., is subject to disciplinary action under section  
19 2234, subdivisions (b), of the Code in that he was grossly negligent in his care and treatment of  
20 Patients 1, 2, and 3.

21 31. Paragraphs 10 through 25, above, are incorporated by reference as if fully set forth  
22 herein.

23 32. Respondent was grossly negligent for his acts and omissions, including but not  
24 limited to the following:

25 (a) Touching Patients 1, 2, and 3's breasts(s) for no medical reason under the guise of a  
26 medical examination;

27 (b) Failing to explain and obtain consent for an examination prior to examining a patient's  
28 chest or other sensitive area;

1 (c) Failing to have a chaperone present when conducting an examination of a patient's  
2 chest or other sensitive area; and

3 (d) Failing to have a chaperone present or to involve a parent and the patient in an  
4 examination of a sensitive area of a minor patient who was complaining of anxiety.

5 **FOURTH CAUSE FOR DISCIPLINE**

6 **(Repeated Negligent Acts)**

7 33. Respondent Andy Yongde Zhu, M.D., is subject to disciplinary action under section  
8 2234, subdivision (c), of the Code, in that he was repeatedly negligent in his care and treatment of  
9 Patients 1, 2 and 3.

10 34. Paragraphs 10 through 25, above, are incorporated by reference as if fully set forth  
11 herein.

12 35. Respondent was repeatedly negligent for his acts and omissions, including but not  
13 limited to the following:

14 (a) Touching Patients 1, 2, and 3's breasts(s) for no medical reason under the guise of a  
15 medical examination;

16 (b) Failing to explain and obtain consent for an examination prior to examining a patient's  
17 chest or other sensitive area;

18 (c) Failing to have a chaperone present when conducting an examination of a patient's  
19 chest or other sensitive area;

20 (d) Failing to have a chaperone present or to involve a parent and the patient in an  
21 examination of a sensitive area of a minor patient who was complaining of anxiety; and

22 (e) Failing to accurately and honestly report a previous patient complaint when asked by  
23 law enforcement officers during the investigation of Patient 3's complaint.

24 **FIFTH CAUSE FOR DISCIPLINE**

25 **(Dishonest or Corrupt Act)**

26 36. Respondent Andy Yongde Zhu, M.D., is subject to disciplinary action under section  
27 2234, subdivision (e), of the Code, in that he committed a dishonest or corrupt act related to the  
28 practice of medicine.

37. Paragraphs 10 through 25,, above, are incorporated by reference as if fully set forth herein.

38. Respondent's act of falsely telling police investigators that he had never been accused of improperly touching a patient, despite having been accused of doing so with Patient 2 in 2016, constitutes a dishonest and corrupt act related to the practice of medicine, thereby subjecting his license to discipline.

### SIXTH CAUSE FOR DISCIPLINE

**(General Unprofessional Conduct)**

39. Respondent's license is subject to disciplinary action under section 2234 in that he committed acts constituting general unprofessional conduct.

40. Paragraphs 10 through 25, above, are incorporated by reference as if fully set forth herein.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
3 and that following the hearing, the Medical Board of California issue a decision:

4 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 104156,  
5 issued to Andy Yongde Zhu, M.D.;

6 2. Revoking, suspending or denying approval of Andy Yongde Zhu, M.D.'s authority to  
7 supervise physician assistants and advanced practice nurses;

8 3. Ordering Andy Yongde Zhu, M.D., to pay the Board the costs of the investigation and  
9 enforcement of this case, and if placed on probation, the costs of probation monitoring;

10 4. Ordering Respondent Andy Yongde Zhu, M.D., if placed on probation, to provide  
11 patient notification in accordance with Business and Professions Code section 2228.1; and

12 5. Taking such other and further action as deemed necessary and proper.

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14 DATED: AUG 02 2023

15 JENNA JONES FOR  
16 REJI VARGHESE  
17 Executive Director  
18 Medical Board of California  
19 Department of Consumer Affairs  
20 State of California  
21 Complainant

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